

SENTENCING SIMULATION PROJECT (SSMP)
CORRECTIONS POPULATION MANAGEMENT COMMISSION

SENTENCING POLICY ANALYSIS

Simulation: Application of Senate Concurrent Resolution 86, Draft Proposal

Summary of Proposal & Simulation: This proposal amends Chapter 706 of the Hawaii Revised Statutes by adding a new section with special sentencing provisions for “habitual violent felons.” As defined, a habitual violent felon has committed one of the listed “crimes of violence” below, and additionally has two prior convictions in their lifetime for one of these offenses:

- a) murder in any degree
- b) manslaughter
- c) assault in the first degree
- d) kidnapping
- e) sexual assault in the first degree
- f) continuous sexual assault of a minor under the age of fourteen years¹
- g) promoting child abuse in the first degree
- h) robbery in the first degree
- i) carrying or use of a firearm in the commission of a separate felony

The sentence for these offenders would be an indeterminate term of life imprisonment with the mandatory minimum term not less than 30 years.

Existing Law: Hawaii currently does not have a 3-Strikes Law or a law targeted specifically at “habitual violent felons.” The State does though have sentencing laws regarding repeat offenders and enhanced sentencing terms for offenders.

Findings & Conclusions: Near-term projections from this simulation show nearly no impact (i.e., within the next 7-8 years). The ensuing increases in the prison population would be accounted for by any additional time that these offenders are kept up-and-beyond the term that they would have initially served before being released. In other words, an increase in prison population would be due to increased lengths of stay for these individuals as opposed to an increase in the number of individuals being sentenced and admitted to prison. In terms of the number of individuals impacted by this proposal, if this law had been enacted five years ago, there would have been 5 individuals who, through 2003, would have met the criteria set. Over the past three years 2001-2003, three people would have qualified (1, 2, and 0 in each year, respectively).² The average parole minimum set for the 5 offenders is 15.3 years; the earliest parole consideration date for one of the offenders would be 2018. As an example, if

¹ This simulation includes all offenses for continuous sexual assault of a minor under the age of fourteen years. The proposed legislation only includes offenses under this statute that “includes an act of sexual penetration.” The reason for this departure from the exact language of the proposed legislation is that this discrimination is not captured in electronic databases.

² Fiscal Year 2003 data obtained may not be fully completed; there is some lag time between court decisions and data entry of sentencing and conviction data.

there was an average of 2 offenders meeting these criteria annually, after 5 years there would be 10 offenders who would be staying roughly 15 years longer, making 2018 the earliest year in which these differences would be noticeable in terms of prison population.³ At that point in time, the annual increased difference is estimated at 0.05% annually.

Prison Impact: With this law applied and assuming that projections remained true that far out into the future, the prison population is projected to increase by roughly 0.05% annually beginning in the year 2018. Population increases of this magnitude would continue in an additive fashion until these impacted offender population served their mandatory minimum term and were later paroled.

Parole Impact: Given that the above prison impact occurred, the parole population would decrease by the offsetting percentage, decreasing roughly 0.05% beginning in 2018.

Probation Impact: The felony probation population would experience no impact if this law was applied since these offenders would not receive probation sentences.

Simulation Notes: It is highly speculative to carry out prison projections as far out into the future as they have been here. To do so assumes that all variables will remain constant for the next 15 years and beyond. The reliability of prison population projections decreases as time passes due to changes in patterns of crime, arrest, and sentencing and conviction, etc. Prison projections experience their highest rates of validity within the first few years as changes in these patterns usually take time to show their effects. Taking this into consideration, the extended projection presented here has been done in order to give a gross account of the population dynamics associated with a measure like this being enacted.

The Sentencing Simulation Project produces an Annual Report that details projected baseline data.

This simulation is compared to those projected data.

This report is viewable and downloadable on the internet at: <http://www.hawaii.gov/psd/cpmc/>

³ This is based on the assumption that these types of offenders would be released on parole at this minimum time (the current average parole minimum).